

***LABOR MANAGEMENT RELATIONS QUARTERLY MEETING***

**32<sup>nd</sup> Street Naval Station**

**San Diego, California**

**May 23-24, 2001**

***PARTICIPANTS:***

**MANAGEMENT:**

*Cristina Murphy Griffith*

*Don Laliberte*

*Ruby Navarro-Villarreal*

*Cathy Partridge*

*Nikki Gallo*

**UNION:**

*Phil Glover*

*Jim Turner*

*Ron Rubottom*

*Allen Green*

*Manny Borquez*

*Bryan Lowry*

*Dennis Biesik*

*Aubrey Francis*

*Rick Mysko*

*Scott Zinn*

***Summary of Issues Addressed During LMR Meeting:***

*California City Staff - Locality Pay*  
*Compressed Work Schedule Listing*  
*Counseling Letters*  
*Custodial Roster*  
*DAP Employees and Custody Duties*  
*DOJ Representation of Bureau Employees*  
*List of New Institutions*  
*Meal Ticket Price Policy*  
*Move Money*  
*Number of ULPs*  
*Perpetual Audits*  
*Picketing*  
*Portal-to-Portal Settlements*  
*Position Descriptions - Mechanical Services*  
*Position Descriptions - COTR*  
*Postponement of Arbitrations*  
*Retaliation for Report of Misconduct*  
*Safe Haven Areas*  
*Toilet Facilities for Staff*  
*Travel Days - Glynco*  
*Wit Sec Training*  
*WS Pay Scales*

### **National Agenda Items: UNION**

1. **ISSUE:** “Pre-post shift: Discuss the pay outs on the settlement, issues with staff placed in categories, and any other items related to it.”

*Response:* Management provided the Union with a handout and a disk which contained an updated list of all uncashed checks. It was explained that there were still 5,624 people to locate. The Bureau had contacted the Social Security Administration (SSA) for help in locating these people but were told that there would be a charge of \$3 for every person to which a letter is mailed. The Internal Revenue Service was also contacted but they stated they would prefer not having any involvement in this process. There was further general discussion about numbers of people and dollar amounts. The Union was satisfied with the information provided and asked for quarterly updates to which Management agreed.

2. **ISSUE:** “Bargaining unit employees working on perpetual audits. This places them in the position of doing management duties.”

*Response:* The Union stated that this is an issue which is occurring at institutions other than FCI Waseca where an unfair labor practice (ULP) has been filed against the Agency. The Union continued by asserting that perpetual audits are a Management function and bargaining unit staff should not be performing these audits. They further stated that Management cannot assign supervisory roles to line staff. Management responded that in order to do an audit, one does not necessarily have to be a supervisor. In addition, Management believes that this is an assignment of work. Since this is an ongoing ULP, Management preferred not to try to resolve this issue at the table without the parties involved. The Union is concerned that Wardens are developing entire programs of auditing without talking to the Union, and appropriate arrangements need to be negotiated. Management indicated that they would contact the Labor Law attorney assigned to the ULP in order to obtain more information and would get back to the Union at some later date. The Union agreed. After the conclusion of the meeting, the Union and Management discussed the intent to negotiate the Impact and Implementation (I &I) of perpetual audits. The I&I negotiations are scheduled for the near future.

3. **ISSUE:** “Use of DAP employees for routine custody duties. Under the appropriation for these positions, routine custody use is not appropriate.”

*Response:* The Union indicated that this is an issue at FCI Talladega. Management responded that they had spoken to staff in the Central Office about this issue (at the time, they did not know it was happening specifically at FCI

*Talladega) and found there had been a memo issued from Keith Hall, Assistant Director, Human Resource Management Division, about this already. The Union responded that the Drug Treatment Specialists at Talladega told them that the Warden had allegedly received the memo but nothing at the institution has changed. Management agreed to further research this directly with staff at the institution. The Union was satisfied with this.*

4. **ISSUE:** “Informational pickets: Wardens’ jurisdiction for ordering staff members off the city sidewalks - identify the law, rule or regulation to support this activity.”

*Response: Management asked the Union if this issue concerned the ULP which has been filed by the local Union at USP Leavenworth to which the Union responded that it was the same issue. The Union continued by saying that they had received clearance from the county that the sidewalk was a public sidewalk and the Warden had no jurisdiction to order staff off that sidewalk. Management responded that there are different kinds of jurisdiction, e.g., concurrent, exclusive, etc. The Union then asked for the law, rule or regulation that addresses this issue. Management responded that depending on what is found during the course of the investigation, it could fall under Title 18. This was a discussion item only.*

5. **ISSUE:** “Correctional Workers’ Week: boycotting - local provided free cook-out on city sidewalk to coincide with a cook-out fund raiser being offered by the Employee’s Club, and the Warden threatened staff and ordered them to disband from the area. Identify the law, rule or regulation to support this activity.”

*Response: This was discussed in cooperation with Issue #4 above.*

6. **ISSUE:** “Meal Tickets: Has Director issued a letter to the Office of Management and Budget (OMB) concerning a waiver of \$1.75 for staff meals? If so, the union requests a copy of the letter and response.”

*Response: Management informed the Union that both parties had met on this issue in 2000 (in August and again in September). At the conclusion of the September meeting, both parties agreed to do further research on issues which had been raised. It was after that time that Management got back with the Union with some answers and was under the impression that they would wait for the Union to provide new proposals based on the information provided. The Union, however, at the LMR Meeting, stated that their original three proposals stood as their proposals, despite the new information. Management agreed to go back and look at the*

*proposals to decide what direction they needed to go. The Union agreed to wait to hear from Management before proceeding further.*

7. **ISSUE:** “Non-representation by Justice: During past LMR, a discussion ensued concerning the three staff members (2 correctional officers and one lieutenant) wherein it was stated that their attorney’s fees would be taken care of, only to find out later, the Bureau and Department of Justice issued letters stating that they are NOT going to pay these fees as they are “not in the interest of the government. ”

*Response: The Union informed Management that there had been a “not guilty” verdict returned on several Leavenworth staff and asserted that the Department of Justice (DOJ) was supposed to reimburse those staff for their legal fees. Management informed the Union that the Bureau has no control over whether DOJ represents or reimburses staff. The Union responded that they understood that but asked that Management show them the letter in which the Bureau at least recommended to DOJ that these staff receive representation. They continued by agreeing that if DOJ decides not to follow the Bureau’s recommendation, this is out of the Bureau’s control. Management agreed that they would look into obtaining some information from the North Central Regional Counsel regarding our recommendation but could not guarantee that the Regional Counsel would provide an answer. The Union was satisfied with this resolution.*

8. **ISSUE:** “Custodial Roster: the Agency is utilizing a new computer-generated custodial roster program for Correctional Services without prior negotiation; the union was informed by the Agency that this procedure would cease, however, it is still being utilized. The Council of Prison Locals is invoking its right to bargain over the implementation of the computer-generated Correctional Roster.”

*Response: The Union stated that their concerns included they can no longer see the daily rosters with the use of this new computerized roster. In addition, the lieutenants (per the Union) don’t believe that they need to print out the daily rosters or provide them to the Union. They expressed their concern that they had never been notified about the impending change or the software. Management responded that there had been a memo put out in February 2001 to all Captains in the field by the Correctional Services Division which required posting of the old (current) roster system until such time as negotiations with the Union had been completed. The Union responded that this was not what was happening and requested a copy of this memo. Management agreed to provide them with a copy after the conclusion of the meeting. The Union stated that they would file a ULP if*

*this issue was not resolved within the near future. Management agreed to look into the situation further and reissue the memo which had been sent in February 2001. Since the conclusion of the meeting, Management has issued a cease and desist order from the Correctional Services Administrator to the field regarding the new roster system until negotiations on the roster format have been completed at the national level.*

9. **ISSUE:** “The union requests an updated copy of the list of Compressed Work Schedules Report for 2001 (nationwide): by region, by institution and by department.”

*Response: This listing was provided to the Union. There was a discussion concerning Compressed Work Schedules in UNICOR but the Union agreed to contact the Labor Law Branch to discuss this issue further.*

10. **ISSUE:** “Are California City BOP staff being paid 16% locality pay?”

*Response: Management informed the Union that there are eight Special Pay Adjustment (SPA) areas of coverage which are defined by the Office of Management and Budget. California City is not in a Consolidated Metropolitan Statistical Area (CMSA) covered by the 16% SPA for law enforcement officers. California City is covered by locality rates of pay for General Schedule employees and it falls within the "Rest of U.S." locality area. The Union was satisfied with this explanation.*

11. **ISSUE:** “Counseling letters: Is there a change in the process for disseminating counseling letters to staff, e.g., via LAN rather than directly from the supervisor to line staff?”

*Response: The Union indicated that there has been a problem within the Western Region where staff are being issued counseling letters via the LAN system. Counseling letters should always be given to staff in person, with face-to-face discussions. Management agreed that these letters should not be distributed over the LAN. The Union asked Management to put out a message to the Western Region only, stating that the LAN should not be used for performance or policy issues. Management agreed.*

12. **ISSUE:** “The union requests an updated BOP list of all new institutions coming on line.”

*Response: Management provided the Union with the requested list.*

13. **ISSUE:** “The union requests the number of ULPs filed in the BOP last year

(2000).”

*Response: Management stated that there had been a total of 305 ULPs filed in the year 2000. The Union was satisfied with this information.*

14. **ISSUE:** “Travel expenses (“move money”) - why was this cut and when will this be reinstated?”

*Response: Management explained that Congress had cut the Bureau’s budget by \$180 million, utility costs have increased, average cost per move increased and therefore, “move money” would probably not be reinstated. The Union asked whether the agency could do something internally but Management responded that we can only work with the budget provided. This was a discussion item only.*

15. **ISSUE:** “Toilet facilities: staff on medical/hospital escort trips are being forced to use the same toilet and restroom facilities as the inmate(s) they are escorting. This is a violation of Article 29, Section b of the Master Agreement.”

*Response: The Union is concerned about hospital trips and staff having to use the same toilet facilities as inmates that are known to be infected with HIV. After researching previous LMR meeting minutes, it was discovered that this issue was raised in February 2000. At that meeting, Management agreed to change the language in Program Statement 5538.04, Chapter 9 (Supervision and Restraint Requirements) to reflect that during watch calls and bathroom breaks, staff could use the “nearest available restroom”. The Union had asked to see the language before it was written into policy. During the current meeting, these minutes were reiterated to the Union and they agreed that this was a satisfactory resolution, i.e., to rewrite the language in the policy. It should be noted that after further inquiries were made after the conclusion of this meeting, it appears that the above referenced policy has not been rewritten yet. However, Correctional Services staff are aware that when it is, the Union will have the opportunity to review the language to ensure it addresses their concern.*

16. **ISSUE:** “Mechanical Services Position Description:  
- if and why is the Agency moving toward generic position descriptions in this area?  
- who is qualified to write PDs for a WS foreman?  
- [what about] attempting to have the foremen write their own PDs?”

*Response: The Union stated that those staff who used to be called “electricians”, “plumbers”, “painters”, “carpenters”, etc. are now being standardized into one position description (PD) called “general foreman”. The general foreman now oversees several areas instead of just one specialized area. Management responded that any PDs which are currently out in the field are not new; they have existed for some time and were written at the local level with the Regional Office’s authority. There had been a Management Re-engineering Team which discussed having standardized PDs but the Union had representation on this workgroup and was aware of this initiative. The Union responded that there were told this was only a possibility, not that it was definitely going to occur. Management, in an effort to help understand what is being circulated in the field, asked the Union for the specific PDs that were allegedly changed. To address the latter parts of the Union’s original agenda issue, Management stated that policy dictates that supervisors are the only ones to determine the duties and responsibilities of their subordinates, and write positions descriptions. Furthermore, Chapter 5 (Position Classification) of the Human Resource Management Manual indicates employees are responsible for being familiar with their PD. In an effort to reach a resolution, Management agreed to write a message to the field that when a PD is changed, the employee affected should be shown the new PD. Management and the Union agreed to work together on the language, then send it to Phil Glover for final review. Once this occurs, it will go out to the field.*

17. **ISSUE:** “COTR: If and why is the Agency moving toward generic position descriptions in this area?”

*Response: The Union stated that at FDC Houston and FCI Texarkana, Management is changing PDs to reflect that everyone should be qualified as a Contracting Officer Technical Representative (COTR). Management responded that according to the relevant contracting regulations, certain qualifications must be met and they were not aware of any institution that was requiring all staff meet those qualifications. The Union’s main concern is the change to the PD. Management agreed to speak with local Management at FDC Houston to try to resolve this issue. The Union was satisfied with this.*

18. **ISSUE:** “Safe haven for staff: why are certain institutions still without safe havens outside the Agency’s own Facilities and Correctional Services Manual?”

*Response: There was some discussion reiterating what had been stated at previous LMR meetings. Management stated that this had been a local issue at USP Atlanta and was under the impression that it had been taken care of*

at that institution. The Union responded that it had not been resolved. In addition, the local union president from MCC San Diego (who was present at this meeting) stated this was a problem at his institution as well. The Union went on to state that there are ways to resolve this issue without spending a lot of money, e.g., using existing offices. Management agreed that is an option. The Union expressed their concern that with the budget being cut, staffing levels are also being cut. However, there is still overcrowding occurring and the safety of staff is a serious issue. The Union wants safe havens designated in at least high and administrative institutions. The Union concluded this discussion by stating that they will send a letter to the Director.

19. **ISSUE:** “WS pay scale: Why is there such a disparity between institutions, within the same locality, in regard to WS pay scale?.”

*Response:* The Union indicated that a Warehouse Foreman at FCI Memphis is a WS-4 while a Warehouse Foreman at FCI Forrest City is a WS-3. They believe they are within the same locality area so it is not understood why there is a difference in the grade level. Management responded there may be a difference in the operation of the institution and application of the classification standard may yield a different grade. The Union said it’s the same PD. Management asked the Union to provide a copy of the two PDs in order to accurately address the issue. The Union agreed to provide them after the conclusion of the meeting.

20. **ISSUE:** “Retaliation: Why is an officer being retaliated against for reporting staff misconduct directly to OIA (USP Beaumont - employee was reassigned from medium to USP)?”

*Response:* The Union indicated that the staff member had reported an incident directly to OIA when her efforts to report it to the SIS were unsuccessful. The Union has discussed this issue with the Warden, the Regional Director and the Chief of OIA. These discussions revolved around the staff member being moved from the medium level institution to the penitentiary. Management responded that the staff member had written a memo to Management at the local level in which she stated her specific reasons for wanting to receive help from Management. She articulated her fear for her safety in this memo; that is why she was moved, i.e., to get her out of a dangerous situation. This was not a case of retaliation. The Union was asked if they had a copy of this memo and they said “no”. Management and the Union agreed to work together to obtain the staff member’s clarification of what she wanted. The staff member has already filed a grievance but Management agreed to work with the Union on a satisfactory solution. The Union agreed to get in touch with Management

*to start this process.*

21. **ISSUE:** “Glynco attendees travel days:  
- The Agency continues to overlook pay issue for staff members attending training in Glynco and being required to travel on their “own time”, i.e., Saturday/Sunday.  
- Holiday pay: staff members are not being compensated with “Holiday pay” while participating in training while in Glynco (which includes a holiday).

*Response: Management stated that in October 1999, a memo from Keith Hall, Assistant Director, Human Resource Management Division, was put out to the Employee Development Managers and Employee Development Assistants concerning travel for training. The Union asked that this memo be reissued and Management agreed that they would reissue it.*

22. **ISSUE:** “National level memo disseminated concerning Wit Sec travel (only GS-8s allowed); this circumvents the local O.T. sign-up roster.”

*Response: Management stated that there was a training announcement which went out in February 2001 for all non-probationary GS-8 and above staff. This was for a limited training opportunity. The Union expressed their concern that this bypasses GS-7 staff who may have more experience than some GS-8 staff. Phil Glover indicated that they were invoking their right to negotiate this training announcement and would start the process by sending this notification in writing to Joe Chapin, Chief, LMR.*

23. **ISSUE:** “Grievances being postponed by agency for lengthy periods of time with no justification for delay.”

*Response: This was an issue which came up at a previous LMR meeting. Management stated that it's not a deliberate attempt to delay setting dates for arbitrations, it's simply a matter of caseload. Management agreed to speak with LMR staff to ensure that there are no unnecessary delays in setting conference calls. The Union was satisfied with this resolution.*